

AG Contract No.: KR04-1320TRN

ADOT ECS File No.: JPA 04-072

Project No.: TEA-077-B(002)A

Section: SR 77

Project: Navajo Blvd

TRACS No.: ~~H6333~~ 01C ~~H6333~~ 01D

Budget Source Item No.: 75306

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF HOLBROOK

**THIS AGREEMENT** is entered into November 4, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF HOLBROOK, acting by and through its MAYOR and CITY COUNCIL (the "City").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. Congress has authorized appropriations for, but not limited to, twelve eligible categories of transportation enhancement activities.

4. The City has selected such project within the boundary of the City; the survey of the project has been completed and as required, submitted to the State and the Federal Highway Administration (FHWA) for its approval.

5. The State and the City desire to participate in the design, construction and maintenance of sidewalks, pavers, pedestrian lights, pedestrian sidewalk ramps, benches and trash receptacles located on both sides of State Route (SR) 77, from Milepost (MP) 387.99 to MP 388.69, hereinafter referred to as the "Project", at an estimated cost of \$402,450.00. The parties agree that the State will design and construct and upon completion the City will maintain the Project.

NO. 27190  
Filed with the Secretary of State  
Date Filed: 11/04/04  
Janice K. Brewer  
Secretary of State

By: Timothy D. Greenwald

**Construction Tracs No. H6333 01C**

Estimated Construction Cost	\$347,788.00
Estimated Federal Aid Funds @ 94.3%	\$327,964.00
Estimated State Funds @ 5.7%	\$ 19,823.00

**Design TRACS No.: H6333 01D**

Estimated Design Costs	\$ 54,662.00
Estimated Federal-aid funds @ 94.3%	\$ 51,546.26
Estimated State funds @ 5.7%	<u>\$ 3,115.74</u>

**Total Estimated Design & Construction Costs: \$402,450.00**

\*Includes 15% for Construction Engineering Administration and 5% for Change Orders

**THEREFORE**, inconsideration of the mutual covenants expressed herein, it is agrees as follows:

**II. SCOPE OF WORK**

## 1. The State will:

a. Submit a program to the Federal Highway Administration (FHWA) containing the above-mentioned Project with the recommendation that it be approved for construction.

b. Construct the Project approved by FHWA, if such funds are available for construction. Be the designated authorized agent with the consent of the City and the FHWA and proceed to advertise for, and open bids with the aid and consent of the City and the FHWA. Enter into a contract(s) with a firm(s) to whom the award is made with the concurrence of the FHWA. Enter into a Project Agreement with FHWA on behalf of the City to perform, complete, accept and pay for in accordance with instructions and requirements of the City and the Arizona Department of Transportation. Request the maximum federal funds available including construction, engineering and administration costs.

c. Prepare plans, specifications and an estimate for the Project and will submit them to the City for concurrence. After the City concurs with the plans, the Project will be constructed by the State using State and Federal Funds.

d. Not be obligated to maintain this Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

## 2. The City will:

a. Not permit or allow any encroachments, except those authorized by permit, upon or private use of the right-of-way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

b. Remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the project area and hereby certifies that all obstructions and encroachments have been or will be removed prior to the start of Project construction.

c. Upon completion and acceptance of the Project, provide for, at its own cost and as an annual item in its budget, perpetual and proper maintenance of the sidewalks, pavers, pedestrian lights, pedestrian sidewalk lamps, benches and trash receptacles. Maintenance shall consist of the care and good repair of all project features listed above and keeping all areas in good repair, free of weeds and undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed and established at the completion of the Project.

d. Be obligated to incur the cost increase of said work due to unforeseen conditions or circumstances required by a change in the extent or scope of the work called for by the City; in this Agreement. The City shall be obligated to incur any such increased cost by the City; any such changes require the prior written approval of the State.

e. Conduct all maintenance work in a manner to minimize traffic congestion and interference with through traffic. All traffic controls will meet the requirements of the most recent Arizona Department of Transportation's "Uniform Traffic Control Manual".

### **III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion and reimbursements provided herein. However, any provisions for maintenance of sidewalks and landscaping, provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of the Project construction contract, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to maintain said Project.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this contract.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation Joint Project Administration 205 South 17 <sup>th</sup> Avenue, Mail Drop 616E Phoenix, AZ 85007 (602)-712-7525	City of Holbrook City Manager 465 First Ave Holbrook, AZ 86025 (928) 524-6225
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7. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State and City under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State and City at the end of the period for which the funds are available. No liability shall accrue to the State and City in the event this provision is exercised as a result of termination under this paragraph.

9. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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**IN WITNESS WHEREOF**, the parties have executed this Agreement the day and year first above written.

**CITY OF HOLBROOK**

**STATE OF ARIZONA**

Department of Transportation

By   
BRYAN SMITHSON  
Mayor

By   
SUSAN TELLEZ  
Contract Administrator

ATTEST

By   
CHER MILLAGE  
Clerk

APPROVAL OF THE CITY OF HOLBROOK

I have reviewed the above referenced proposed intergovernmental Agreement, between the DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, and CITY OF HOLBROOK and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 12<sup>th</sup> day of October, 2004.

  
City Attorney

RESOLUTION NO. 418

A RESOLUTION OF THE CITY OF HOLBROOK, ARIZONA, AUTHORIZING  
AN AGREEMENT WITH THE ARIZONA DEPARTMENT OF  
TRANSPORTATION FOR STREETSCAPE ENHANCEMENTS ON  
SR-77/NAVAJO BOULEVARD (BUFFALO TO IOWA)

RECITALS

WHEREAS, the community and Council members of the City of Holbrook have made enhancing and revitalizing downtown Holbrook area a priority,

WHEREAS, the Arizona Department of Transportation (ADOT) has awarded a TEA 21 project as a State-led project for the City in the amount of \$402,450,

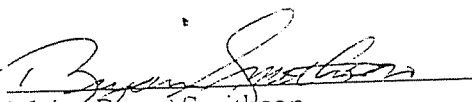
WHEREAS, the City of Holbrook is committed to the on-going maintenance of the improvements from its General and Highway Funds, and

WHEREAS, the City of Holbrook authorizes staff to enter into covenants to ensure and advance this project.

ENACTMENTS


THEREFORE, BE IT RESOLVED by the Mayor and Council members are authorizing the covenant with ADOT to improve our downtown corridor and take measures to enable staff and ADOT to move this project forward.

PASSED AND ADOPTED this 28<sup>th</sup> day of September, 2004 by the  
Holbrook City Council.

  
Mayor Bryan Smithson

ATTEST:

  
Cher Millage, CMC, CPM

  
City Attorney



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR04-1320TRN (**JPA 04-072**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 28, 2004

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script, reading "Susan Davis", written over a horizontal line.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section